

**RON WYDEN**  
OREGON

616 Hart Senate Building  
Washington, DC  
20510-3703  
(202) 224-5244

e-mail:  
senator@wyden.senate.gov

web site:  
www.senate.gov/~wyden/

# United States Senate

WASHINGTON, DC 20510-3703

April 5, 2000

The Honorable Q. Todd Dickinson  
Commissioner of Patents and Trademarks  
U.S. Department of Commerce  
Washington, D.C. 20231

Re: Blacklight Power, Inc.'s Patent Application Ser. No.  
09/009,294

Dear Commissioner Dickinson:

I am writing this letter on behalf of one of my constituents who is a member of the Board of Directors of Blacklight Power, Inc. It has come to my attention that the U.S. Patent & Trademark Office has withdrawn a Blacklight patent application, Ser. No. 09/009,294 ("294 application"), which was due to issue as U.S. Patent No. 6,030,601 on February 29, 2000. A copy of the February 17, 2000 Notice of withdrawal that was sent to Blacklight's counsel is attached. It is alleged by my constituent that the patent due to issue to Blacklight was withdrawn through an unusual process.

Please also find enclosed a copy of an abstract for a speech from an Official at the U.S. Department of State, Dr. Peter Zimmerman, who plans to present a paper to the American Physics Society in April. The abstract states that Dr. Zimmerman's "own Department and the Patent Office have fought back with success" against inventors of "hydrinos." According to Blacklight Power, the term "hydrinos" was coined and is used exclusively by the company.

My questions concerning this matter relate to: (1) any involvement you may have had in pulling the '294 application from issuance; (2) any *ex parte* communications that may have occurred between third parties and the Patent Office relating to Blacklight or its technology; and (3) how the State Department and the Patent Office may have "fought back with success" against Blacklight.

## Committees:

Budget  
Commerce, Science  
& Transportation  
Energy & Natural Resources  
Environment & Public Works  
Special Committee on Aging

## Oregon State Offices:

700 NE Multnomah St  
Suite 450  
Portland, OR 97232  
(503) 326-7525

151 West 7th Ave  
Suite 428  
Eugene, OR 97401  
(541) 431-0229

See Annex Building  
105 Fir St  
Suite 210  
La Grande, OR 97650  
(541) 962-7691

U.S. Courthouse  
310 West 6th St  
Room 118  
Medford, OR 97501  
(541) 858-8122

The Jamison Building  
131 NW Hawthorne Ave  
Suite 107  
Bend, OR 97701  
(541) 330-9142

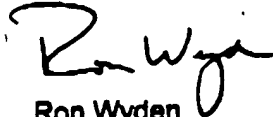
707 13th St. SE  
Suite 285  
Salem, OR 97301  
(503) 588-4335

To address these concerns, I am requesting that you provide me with the following information:

- (a) A written description of your role and any relevant communications between you and other Patent Office personnel in withdrawing the '294 application from issue.
- (b) Copies of any written communications between third parties and the Patent Office relating to Blacklight or its technology, including any correspondence between you or other Patent Office personnel and the State Department, including Dr. Zimmerman; and any written communications between the Patent Office and any other Federal agencies relating to Blacklight or its technology.
- (c) The extent of any cooperation between Dr. Zimmerman, the U.S. State Department, and the Patent Office relating to Blacklight, its technology or the '294 application.

I look forward to your prompt response to this request. If you have any questions concerning this request, please contact Joshua Sheinkman of my staff at (202) 224-5244.

Sincerely,



Ron Wyden  
United States Senator

Attachments: February 17, 2000 Notice of withdrawal  
Peter D. Zimmerman, "Touching the Third Rail: Encounters with  
Pseudoscience and Pseudoscientists," U.S. Department of State

CC: Kevin Baer, Esq., Attorney-Advisor, U.S. Patent Office  
Janie Cooksey, U.S. Department of Commerce  
Mr. C. Norman Winningstad



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER OF  
PATENTS AND TRADEMARKS  
Washington, D.C. 20231

PMH.2

Paper N

FARKAS & MANELLI, PLLC  
2000 M STREET NW  
7TH FLOOR  
WASHINGTON, DC 20036-2307

**COPY MAILED**

**FEB 17 2000**

**SPECIAL PROGRAMS OFFICE  
DAC FOR PATENTS  
NOTICE**

In re Application of  
Randell L. Mills  
Application No. 09/009,294  
Filed: January 20, 1998  
Attorney Docket No. 911319

The purpose of this communication is to inform you that the instant application, which has received Patent No. 6,030,601 and an issue date of February 19, 2000, is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. This withdrawal was requested by the Director, Special Program Law Office.

The issue fee is refundable upon written request. However, if the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

This application, upon receipt in the Office of Petitions, will be forwarded to Technology Center AU 1745 for reopening of prosecution.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-8680.

*Frances Hicks*

Frances Hicks  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Assistant Commissioner  
for Patent Policy and Projects



**101B, Long Beach Convention Center**

*Peter D. Zimmerman (United States Department of State, Washington, DC 20520)*

Pseudoscience, and particularly "pseudophysics" is alive and thriving as we approach the turn of the millennium. Not only have many "inventors" of cold fusion spin-offs been making money from investors, but they and "inventors" of various kinds of "zero point energy" devices, perpetual motion machines, and other wonders such as "hydrinos" have found friends in the United States Senate. At least one Nobel Laureate in physics has come to their aid. The Web has been a powerful organizing force as well.

Some organizations, including my own Department and the Patent Office have fought back with success, but always at great cost in time and energy. Pseudophysicists and their friends have money, influence, and sometimes clout. They have not hesitated to use threats, personal attacks, and the full machinery by which government is made accountable to the public to strike at those who expose technical fraud. Encounters with pseudophysicists are like grabbing a hot wire: after the first contact it is hard to get free, and it can inflict serious injury. But you, and I, and all our colleagues in the APS must do what we can to ensure that U.S. policy is not manipulated by pseudoscience, to make certain that taxpayer money is not wasted on nonsense, and to restore public confidence in real science. This will take efforts at public education, work, and as I have learned in the last year not a little bit of courage. APS and FPS should be in the thick of the battle. This talk is an account of a year in the fray.

• Part J of program listing

7-25-2001 13:55 FROM: BLACKLIGHT POWER, INC 16034901066  
7/24/01 TUE 14:03 FAX 202 224-3224 SENATOR TORRICELLI

29872336

P. 003/003

ROBERT G. TORRICELLI  
NEW JERSEY

COMMITTEES:

GOVERNMENTAL AFFAIRS

JULIES AND ADMINISTRATION

FOREIGN RELATIONS

FINANCE

## United States Senate

113 DIRKSEN SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-3003  
(202) 224-3224

July 20, 2001

ONE RIVERFRONT PLAZA  
3RD FLOOR  
NEWARK, NEW JERSEY 07102  
(973) 826-4229  
430 BENSON BLVD.  
KORSMAN INTERSTATE BUSINESS PARK  
SUITE A-1  
DELMAR, NEW JERSEY 08031  
(056) 100-1245  
HIC/Non ICR/Le/ma/gov  
Senator Robert G. Torricelli, Senate Gov

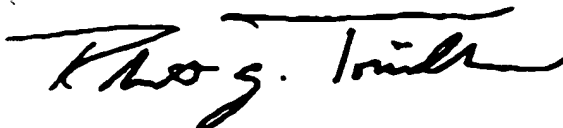
Nicholas P. Godici  
Acting Undersecretary of Commerce for Intellectual Property  
and Acting Director of the Patent and Trademark Office  
U.S. Patent and Trademark Office  
Washington, D.C. 20231

Dear Acting Director Godici:

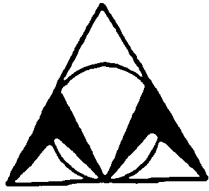
I am writing you on behalf of Blacklight Power, Inc., one of my constituent companies. Recently, I received the attached letter from Blacklight detailing what seem to be very unusual circumstances that have arisen in the course of their attempts to obtain a patent for their new and intriguing technology. In my opinion, if the allegations set forth in this letter are indeed true, they raise troubling questions about the conduct of some representatives of the Patent Office.

I ask that you look into this matter and I look forward to receiving your response to the issues raised in the attached correspondence. Thank you for your consideration and your attention to this matter.

Sincerely,



Robert G. Torricelli  
UNITED STATES SENATOR



**BLACKLIGHT<sup>SM TM</sup>**  
**P O W E R inc.**

493 Old Trenton Road  
Cranbury, NJ 08512

Telephone (609) 490-1090  
Fax (609) 490-1066

May 10, 2001

The Honorable Robert G. Torricelli, U.S. Senator  
113 Dirksen Senate Office Building  
Washington, DC 20510

Re: Investigation of Improper Actions by U.S. Patent Office

Dear Senator Torricelli:

We kindly request your assistance in investigating and addressing the highly improper actions taken by the U.S. Patent and Trademark Office (PTO) against a constituent of yours, BlackLight Power, Inc. (BlackLight). These actions not only threaten the livelihood of a thriving New Jersey company, but threaten to undermine the integrity of the U.S. patent system, as well as diminish our ability to effectively cope with the looming energy crisis in this country.

BlackLight is a small start-up company located in Cranbury, New Jersey. It employs 35 individuals, most of whom are research scientists, engineers, and technicians. For the past three years since BlackLight located its operations in New Jersey, BlackLight has worked tirelessly and has spent millions of dollars developing a new, commercially feasible, clean process for producing electricity from hydrogen. BlackLight's technology represents a significant advance in the field of energy production and the company has built a substantial business and scientific team to commercialize products. This technology is based on Dr. Randell L. Mills' theory and experimentally verified process of utilizing catalysts to relax the electron in hydrogen atoms to lower energy levels to thereby release clean energy and produce novel chemical products. Rest assured that our technology is not based on "cold fusion" or other speculative technologies.

Blacklight's new energy production process and novel chemical products are easily reproducible and have been independently verified by prestigious universities, government agencies and laboratories. Early generation power cells were confirmed by MIT Lincoln Labs, INEL, Westinghouse Corporation, NASA Lewis, Chalk River National Laboratory, Thermacore Corporation, and Pennsylvania State University. The chemical products were predicted and analyzed by 20 different types of tests performed at over 20 independent laboratories. BlackLight recently submitted 22 journal articles to journals, 16 of which are presently in press or published, which broadly disclose the test results for general peer review. The articles overwhelmingly verify BlackLight's novel hydrogen chemistry by reporting data from extreme ultraviolet (EUV) spectroscopy, plasma formation, power generation, and analysis of chemical products. BlackLight has also made 22 presentations of its results at scientific meetings over the past two years. The most recent presentation at the National Hydrogen Association, 12<sup>th</sup> Annual U.S. Hydrogen Meeting and Exposition, resulted in an invitation to submit an article to the published meeting proceedings.

The Honorable Robert G. Tomicelli

May 10, 2001

Page 2 of 5

Because the theory involved is revolutionary and questions the validity of basic assumptions that underlie established Quantum Mechanics, Dr. Mills' work is highly controversial. And, as always is the case in "paradigm shifting" events, both Dr. Mills and his theory have been the subjects of criticism—and even derision—by a number of established and respected sources that have acknowledged their failure to even study BlackLight's published experimental results.

The promise inherent in the ultimate commercial application of BlackLight's theory to this nation and, indeed, to all mankind is truly staggering. It represents the potential capability for mankind to harness an unlimited source of energy with vastly lower environmental impacts from harmful waste product emissions or, as with nuclear energy systems, radioactive material disposition. With the advent of this nation's ever-increasing dependency on energy from politically unstable sources overseas, rapidly escalating fuel prices, and now the prospect of rolling blackouts, such as those already occurring in California, the need for alternative low-cost, abundant sources of energy in this country has never been greater.

As an initial step in bringing its energy technology to market, BlackLight sought to protect its intellectual property rights in that technology by filing numerous patent applications in the PTO. Unfortunately, the PTO has mishandled these applications and, in so doing, has failed to carry out its Constitutional mandate to advance the progress of science.

Specifically, evidence has been uncovered regarding the PTO's improper use of outside contacts, including officials from the State Department and the American Physical Society (APS) in what appears to be a concerted effort to subvert BlackLight's technology. For instance, there is strong evidence showing that PTO officials received unidentified *ex parte* communications from competitors of BlackLight that resulted in the PTO Commissioner withdrawing from issue several BlackLight applications that had been previously allowed. [Attachment 5, February 28, 2000 and Attachment 6, January 19, 2001 letters to Director Esther Keplinger of the PTO] Indeed, Dr. Peter Zimmerman, former Chief Scientist at the State Department, has admitted that Dr. Robert Park—spokesperson for the APS, a BlackLight competitor—uses a contact in the PTO that Dr. Park refers to as "Deep Throat" to obtain confidential information, including information relating to BlackLight's previously allowed patent applications. Following withdrawal of BlackLight's patent applications from issue, an abstract written by Dr. Zimmerman appeared on the APS' website boasting that the PTO and State Department had "fought back with success" against BlackLight. [See copy of Abstract in Attachment 6, Tab C of January 19, 2001 letter to Director Keplinger]

Although the APS' "Deep Throat" contact has been brought to the PTO's attention on several occasions, so far, PTO officials have refused to cooperate in providing any information relating to this subject. Inasmuch as U.S. patent applications are to be held in strict confidence, obviously, any breach of that confidentiality would be deeply troubling, but particularly so if

The Honorable Robert G. Torricelli  
May 10, 2001  
Page 3 of 5

information was being disseminated to one of BlackLight's competitors. [See copy of July 10, 2000 Letter to State Department in Attachment 6, Tab C of January 19, 2001 letter to Director Kepplinger]

The PTO has also taken extreme positions, perhaps in concert with outside competitive forces, to thwart the granting of BlackLight's patents. These actions include muzzling and essentially replacing the Examiners who had previously allowed BlackLight's patent applications with a "Secret Committee" of PTO officials assigned the task of rejecting those applications behind "closed doors." To this day, Examiner Langel, who has 28 years of experience in prosecuting patent applications, believes BlackLight's energy patent applications represent significant technological advances and therefore are allowable. Recent discussions with Examiner Langel confirm that, while he believes the experimental evidence supporting allowance of the applications submitted by BlackLight is overwhelming, he is being instructed by the Secret Committee to reject the applications despite the lack of adequate basis to do so.

Attempts by BlackLight to learn the full composition of the PTO's "Secret Committee," including the identity of outside consultants and/or competitors who may have served illegally as committee members in further breach of PTO confidentiality, have been met with only antagonism and outright aggression. Such hostility toward patent applicants is, to our knowledge, unprecedented and in clear violation of fundamental principles of due process that can only erode the trust and confidence that the public places in the PTO.

Although BlackLight has satisfied, indeed exceeded, the statutory requirements of patentability for its novel energy technology, BlackLight's counsel and company executives met with PTO officials at an interview conducted at the PTO on February 21, 2001 in an attempt to resolve this matter. Specifically, BlackLight attempted to discern through this interview the newly-minted patent standards that were being used to thwart BlackLight's applications, as well as the composition of the Secret Committee and outside consultants that were assembled to lead the PTO's attack against BlackLight.

PTO officials attending the interview flatly refused to even discuss BlackLight's request seeking the complete identity of the PTO's Secret Committee members. Indeed, Secret Committee Examiner Jagannathan, who led the interview on behalf of the PTO, became quite indignant in his response to BlackLight's inquiry, claiming that this information was not germane to the prosecution and, in a harsh tone, threatened to shut down the interview if BlackLight further inquired into the matter. Ironically, without an initial investigation conducted by BlackLight's counsel, the identity of Secret Committee Examiner Jagannathan and his own involvement in subverting BlackLight's patent applications would never have become known and he would not have been forced to attend the interview. Unfortunately, his appearance at the interview was used as yet another opportunity to "stonewall" BlackLight's attempt to obtain answers to legitimate questions. [Attachment 1, PTO mailing dated February 12, 2001 identifying certain members of Secret Committee]



The Honorable Robert G. Torricelli  
May 10, 2001  
Page 4 of 5

The PTO also made clear during the interview that it did not feel constrained to follow established statutory standards of patentability—standards that BlackLight had already met in obtaining allowance upon the first complete examination—and that it was free to create new, more onerous standards of patentability that apply only to BlackLight. The PTO absolutely refused to provide any guidance as to the level of experimental evidence that would be required to once again convince the PTO to allow BlackLight's patent applications and even went so far as to require that BlackLight's experimental evidence be published and evaluated by its competitors before it could be considered. Surely, when enacting the patent statutes, Congress never intended that applicants' competitors oversee the granting of U.S. patents.

Unfortunately, prior attempts to investigate this matter by Senator Max Cleland have been similarly thwarted. Twice now, Senator Cleland has requested relevant information from the PTO and, in both instances, the PTO has refused to honor his request. [Attachment 2]

The first excuse the PTO gave for its refusal was that the matter was the subject of litigation between the PTO and BlackLight over the withdrawal of the allowed patent applications from issuance, presently pending before the Court of Appeals for the Federal Circuit. That excuse, however, is simply untrue since the parties stipulated in the litigation that any unidentified *ex parte* communications the PTO may have received from third parties resulting in the withdrawal of BlackLight's patent applications are not germane to whether the withdrawal itself was legal. Incredibly, the PTO has further argued that the present prosecution of BlackLight's patent applications is a proceeding separate and distinct from the litigation over the legality of withdrawing those applications from issue. And yet, when pressed a second time to provide information relating to the persons involved in the present prosecution of the subject applications, the PTO had the audacity to claim that such information was still not germane. [Attachment 3, Interview Summary] Please be assured that the limited information BlackLight seeks regarding the PTO's improper actions is not the subject of any litigation and, thus, the PTO's refusal to provide that information will not be resolved by any pending court proceeding.

Other attempts to extract this information from the PTO through official government channels have also failed. For instance, BlackLight sought to have Secretary of Commerce Donald Evans conduct an inquiry into this matter since his Department has direct jurisdiction over the administration of the PTO. Secretary Evans' office, however, declined to intervene believing that there were "no compelling reasons" to do so and merely referred the matter back to the PTO. [Attachment 4, February 14, 2001 letter from Nicholas P. Godici, Acting Under Secretary of Commerce for Intellectual Property]

The PTO's continued avoidance in dealing with this inquiry is simply unacceptable and so we are now turning to you for help. The commercial deployment of BlackLight's technology in the U.S. stands to significantly impact our country's energy policies in a very positive way and, in the process, bring notoriety to the State of New Jersey. The fair administration of the

The Honorable Robert G. Torricelli  
May 10, 2001  
Page 5 of 5

patent examination process, which hopefully will once again lead to the granting of patents on that technology, is an important step in that direction. Critical not just to BlackLight, but to all patent applicants, is knowing that the PTO is conducting itself with the utmost integrity and candor in the examination process. One way to assure ourselves of maintaining this worthy objective would be, with your help, to initiate an investigation into the PTO's improper actions by the General Accounting Office.

Any suggestions as to other actions we might take or other assistance you can provide in resolving this unfortunate situation would be greatly appreciated. Should you require any additional information regarding this matter, please feel free to contact my counsel, Jeffrey S. Melcher (202.261.1045) or Jeffrey A. Simenauer (202.261.1001), with any questions you may have.

In addition, in view of the potential importance of BlackLight's research to the United States and its close proximity to your New Jersey offices, we would be honored if you and certain of your staff would visit the company's facility in Cranbury for a personal briefing and tour of the laboratories, and witness for yourself the performance of our demonstration devices.

Thank you for your consideration of this important matter.

Sincerely yours,



Dr. Randell L. Mills  
President, BlackLight Power, Inc.

Attachments



UNITED STATES  
PATENT AND  
TRADEMARK OFFICE

Administrator for External Affairs  
Washington, DC 20231  
[www.uspto.gov](http://www.uspto.gov)

The Honorable Robert G. Torricelli  
United States Senate  
Washington, D.C. 20510-3003

AUG 14 2001

Dear Senator Torricelli:

Thank you for your letter on behalf of Dr. Randell L. Mills, President, Blacklight Power, Inc., regarding patent application serial number 09/009,294, and the circumstances concerning its withdrawal from issuance by the United States Patent and Trademark Office (USPTO).

Dr. Mills expresses concerns of "improper" acts by the USPTO, including the possibility of inappropriate communications with outside parties, with particular regard to the withdrawal of that application from allowance. In doing so, he offers a number of allegations to support his concerns.

However, the withdrawal from issue of patent application serial number 09/009,294 is the subject of litigation in the case of *Blacklight Power, Inc. v. Dickinson*, Civ. No. 00-0422 (D.D.C.). The case is currently on appeal to the Court of Appeals of the Federal Circuit from final judgment entered in favor of the USPTO on August 15, 2000, in the district court. Although Dr. Mills states that he does not consider the information requested regarding outside contacts, among other items, to be the subject of the litigation, it is our view that these issues were raised in the ongoing litigation. It would be inappropriate, therefore, to comment on this matter in detail. Furthermore, the application is still pending and the applicant possesses all procedural remedies, including, but not limited to, the opportunity to seek judicial relief.

In light of the pending status of the relevant litigation, any additional comment by the USPTO would be inappropriate.

We trust the foregoing will be useful in responding to your constituent. For your information, a similar letter of response about this matter is also being sent to Senator Jon S. Corzine.

Sincerely,

Robert L. Stoll  
Administrator for External Affairs

ON S. CORZINE  
NEW JERSEY

COMMITTEES  
AGING, HOUSING, AND  
URBAN AFFAIRS  
ENVIRONMENT AND  
PUBLIC WORKS  
JOINT ECONOMIC

## United States Senate

WASHINGTON, DC 20510-3004

502 SENATE HART OFFICE BUILDING  
WASHINGTON, DC 20510  
(202) 224-7446

ONE GATEWAY CENTER  
11TH FLOOR  
NEWARK, NJ 07102  
(973) 645-3030

208 WHITE HORSE PINE  
SUITE 18-19  
BARRINGTON, NJ 08007  
(856) 757-5353

August 2, 2001

The Honorable Q. Todd Dickinson  
United States Department of Commerce  
Patent and Trademark Office  
Washington, D.C. 20231

**Re: Blacklight Power, Inc.'s Patent Application  
Serial# 09/009,294**

Dear Commisioner:

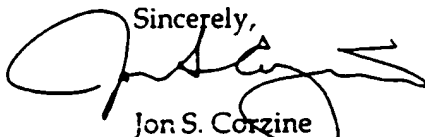
Enclosed is correspondence I received in reference to a matter involving your agency. This is a matter of particular interest to me and I would appreciate your fair and appropriate consideration.

In your reply, please reference Blacklight Power, Inc.

If you need further information, please contact Debbie Curto, Director of Constituent Services, at (973) 645.3502.

Again, thank you for your assistance.

Sincerely,



Jon S. Corzine  
United States Senator

JSC:dpc

Enclosure

May 10, 2001

The Honorable Robert G. Torricelli, U.S. Senator  
115 Dirksen Senate Building  
Washington, DC. 20510

Re: Investigation of Improper Actions by U.S. Patent Office

Dear Senator Torricelli:

We kindly request your assistance in investigating and addressing the highly improper actions taken by the U.S. Patent and Trademark Office (PTO) against a constituent of yours, BlackLight Power, Inc. (BlackLight). These actions not only threaten the livelihood of a thriving New Jersey company, but threaten to undermine the integrity of the U.S. patent system, as well as diminish our ability to effectively cope with the looming energy crisis in this country.

BlackLight is a small start-up company located in Cranbury, New Jersey. It employs 35 individuals, most of whom are research scientists, engineers, and technicians. For the past three years since BlackLight located its operations in New Jersey, BlackLight has worked tirelessly and has spent millions of dollars developing a new, commercially feasible, clean process for producing electricity from hydrogen. BlackLight's technology represents a significant advance in the field of energy production and the company has built a substantial business and scientific team to commercialize products. This technology is based on Dr. Randell L. Mills' theory and experimentally verified process of utilizing catalysts to relax the electron in hydrogen atoms to lower energy levels to thereby release clean energy and produce novel chemical products. Rest assured that our technology is not based on "cold fusion" or other speculative technologies.

Blacklight's new energy production process and novel chemical products are easily reproducible and have been independently verified by prestigious universities, government agencies and laboratories. Early generation power cells were confirmed by MIT Lincoln Labs, INEL, Westinghouse Corporation, NASA Lewis, Chalk River National Laboratory, Thermacore Corporation, and Pennsylvania State University. The chemical products were predicted and analyzed by 20 different types of tests performed at over 20 independent laboratories. BlackLight recently submitted 22 journal articles to journals, 16 of which are presently in press or published, which broadly disclose the test results for general peer review. The articles overwhelmingly verify BlackLight's novel hydrogen chemistry by reporting data from extreme ultraviolet (EUV) spectroscopy, plasma formation, power generation, and analysis of chemical products. BlackLight has also made 22 presentations of its results at scientific meetings over the past two years.

The Honorable Robert G. Torricelli  
May 10, 2001  
Page 2 of 5

The most recent presentation at the National Hydrogen Association, 12<sup>th</sup> Annual U.S. Hydrogen Meeting and Exposition, resulted in an invitation to submit an article to the published meeting proceedings.

Because the theory involved is revolutionary and questions the validity of basic assumptions that underlie established Quantum Mechanics, Dr. Mills' work is highly controversial. And, as always is the case in "paradigm shifting" events, both Dr. Mills and his theory have been the subjects of criticism—and even derision—by a number of established and respected sources that have acknowledged their failure to even study BlackLights' published experimental results.

The promise inherent in the ultimate commercial application of BlackLight's theory to this nation and, indeed, to all mankind is truly staggering. It represents the potential capability for mankind to harness an unlimited source of energy with vastly lower environmental impacts from harmful waste product emissions or, as with nuclear energy systems, radioactive material disposition. With the advent of this nation's ever-increasing dependency on energy from politically unstable sources overseas, rapidly escalating fuel prices, and now the prospect of rolling blackouts, such as those already occurring in California, the need for alternative low-cost, abundant sources of energy in this country has never been greater.

As an initial step in bringing its energy technology to market, BlackLight sought to protect its intellectual property rights in that technology by filing numerous patent applications in the PTO. Unfortunately, the PTO has mishandled these applications and, in so doing, has failed to carry out its Constitutional mandate to advance the progress of science.

Specifically, evidence has been uncovered regarding the PTO's improper use of outside contacts, including officials from the State Department and the American Physical Society (APS) in what appears to be a concerted effort to subvert BlackLight's technology. For instance, there is strong evidence showing that PTO officials received unidentified *ex parte* communications from competitors of BlackLight that resulted in the PTO Commissioner withdrawing from issue several BlackLight applications that had been previously allowed. [Attachment 5, February 28, 2000 and Attachment 6, January 19, 2001 letters to Director Esther Keplinger of the PTO] Indeed, Dr. Peter Zimmerman, former Chief Scientist at the State Department, has admitted that Dr. Robert Park—spokesperson for the APS, a BlackLight competitor—uses a contact in the PTO that Dr. Park refers to as "Deep Throat" to obtain confidential information, including information relating to BlackLight's previously allowed patent applications. Following withdrawal of BlackLight's patent applications from issue, an abstract written by Dr. Zimmerman appeared on the APS' website boasting that the PTO and State Department had "fought back with success" against BlackLight. [See copy of Abstract

The Honorable Robert G. Torricelli  
May 10, 2001  
Page 3 of 5

in Attachment 6, Tab C of January 19, 2001 letter to Director Kepplinger].

Although the APS' "Deep Throat" contact has been brought to the PTO's attention on several occasions, so far, PTO officials have refused to cooperate in providing any information relating to this subject. Inasmuch as U.S. patent applications are to be held in strict confidence, obviously, any breach of that confidentiality would be deeply troubling, but particularly so if information was being disseminated to one of BlackLight's competitors. [See copy of July 10, 2000 Letter to State Department in Attachment 6, Tab C of January 19, 2001 letter to Director Kepplinger]

The PTO has also taken extreme positions, perhaps in concert with outside competitive forces, to thwart the granting of BlackLight's patents. These actions include muzzling and essentially replacing the Examiners who had previously allowed BlackLight's patent applications with a "Secret Committee" of PTO officials assigned the task of rejecting those applications behind "closed doors." To this day, Examiner Langel, who has 28 years of experience in prosecuting patent applications, believes BlackLight's energy patent applications represent significant technological advances and therefore are allowable. Recent discussions with Examiner Langel confirm that, while he believes the experimental evidence supporting allowance of the applications submitted by BlackLight is overwhelming, he is being instructed by the Secret Committee to reject the applications despite the lack of adequate basis to do so.

Attempts by BlackLight to learn the full composition of the PTO's "Secret Committee," including the identity of outside consultants and/or competitors who may have served illegally as committee members in further breach of PTO confidentiality, have been met with only antagonism and outright aggression. Such hostility toward patent applicants is, to our knowledge, unprecedented and in clear violation of fundamental principles of due process that can only erode the trust and confidence that the public places in the PTO.

Although BlackLight has satisfied, indeed exceeded, the statutory requirements of patentability for its novel energy technology, BlackLight's counsel and company executives met with PTO officials at an interview conducted at the PTO on February 21, 2001 in an attempt to resolve this matter. Specifically, BlackLight attempted to discern through this interview the newly-minted patent standards that were being used to thwart BlackLight's applications, as well as the composition of the Secret Committee and outside consultants that were assembled to lead the PTO's attack against BlackLight.

PTO officials attending the interview flatly refused to even discuss BlackLight's request seeking the complete identity of the PTO's Secret Committee members. Indeed, Secret Committee Examiner Jagannathan, who led the interview on behalf of the PTO, became quite indignant in his response to BlackLight's inquiry, claiming that

The Honorable Robert G. Torricelli  
May 10, 2001  
Page 4 of 5

this information was not germane to the prosecution and, in a harsh tone, threatened to shut down the interview if BlackLight further inquired into the matter. Ironically, without an initial investigation conducted by BlackLight's counsel, the identity of Secret Committee Examiner Jagannathan and his own involvement in subverting BlackLight's patent applications would never have become known and he would not have been forced to attend the interview. Unfortunately, his appearance at the interview was used as yet another opportunity to "stonewall" BlackLight's attempt to obtain answers to legitimate questions. [Attachment 1, PTO mailing dated February 12, 2001 identifying certain members of Secret Committee]

The PTO also made clear during the interview that it did not feel constrained to follow established statutory standards of patentability—standards that BlackLight had already met in obtaining allowance upon the first complete examination—and that it was free to create new, more onerous standards of patentability that apply only to BlackLight. The PTO absolutely refused to provide any guidance as to the level of experimental evidence that would be required to once again convince the PTO to allow BlackLight's patent applications and even went so far as to require that BlackLight's experimental evidence be published and evaluated by its competitors before it could be considered. Surely, when enacting the patent statutes, Congress never intended that applicants' competitors oversee the granting of U.S. patents.

Unfortunately, prior attempts to investigate this matter by Senator Max Cleland have been similarly thwarted. Twice now, Senator Cleland has requested relevant information from the PTO and, in both instances, the PTO has refused to honor his request. [Attachment 2]

The first excuse the PTO gave for its refusal was that the matter was the subject of litigation between the PTO and BlackLight over the withdrawal of the allowed patent applications from issuance, presently pending before the Court of Appeals for the Federal Circuit. That excuse, however, is simply untrue since the parties stipulated in the litigation that any unidentified *ex parte* communications the PTO may have received from third parties resulting in the withdrawal of BlackLight's patent applications are not germane to whether the withdrawal itself was legal. Incredibly, the PTO has further argued that the present prosecution of BlackLight's patent applications is a proceeding separate and distinct from the litigation over the legality of withdrawing those applications from issue. And yet, when pressed a second time to provide information relating to the persons involved in the present prosecution of the subject applications, the PTO had the audacity to claim that such information was still not germane. [Attachment 3, Interview Summary] Please be assured that the limited information BlackLight seeks regarding the PTO's improper actions is not the subject of any litigation and, thus, the PTO's refusal to provide that information will not be resolved by any pending court proceeding.



The Honorable Robert G. Torricelli  
May 10, 2001  
Page 5 of 5

Other attempts to extract this information from the PTO through official government channels have also failed. For instance, BlackLight sought to have Secretary of Commerce Donald Evans conduct an inquiry into this matter since his Department has direct jurisdiction over the administration of the PTO. Secretary Evans' office, however, declined to intervene believing that there were "no compelling reasons" to do so and merely referred the matter back to the PTO. [Attachment 4, February 14, 2001 letter from Nicholas P. Godici, Acting Under Secretary of Commerce for Intellectual Property]

The PTO's continued avoidance in dealing with this inquiry is simply unacceptable and so we are now turning to you for help. The commercial deployment of BlackLight's technology in the U.S. stands to significantly impact our country's energy policies in a very positive way and, in the process, bring notoriety to the State of New Jersey. The fair administration of the patent examination process, which hopefully will once again lead to the granting of patents on that technology, is an important step in that direction. Critical not just to BlackLight, but to all patent applicants, is knowing that the PTO is conducting itself with the utmost integrity and candor in the examination process. One way to assure ourselves of maintaining this worthy objective would be, with your help, to initiate an investigation into the PTO's improper actions by the General Accounting Office.

Any suggestions as to other actions we might take or other assistance you can provide in resolving this unfortunate situation would be greatly appreciated. Should you require any additional information regarding this matter, please feel free to contact my counsel, Jeffrey S. Melcher (202.261.1045) or Jeffrey A. Simenauer (202.261.1001), with any questions you may have.

In addition, in view of the potential importance of BlackLight's research to the United States and its close proximity to your New Jersey offices, we would be honored if you and certain of your staff would visit the company's facility in Cranbury for a personal briefing and tour of the laboratories, and witness for yourself the performance of our demonstration devices.

Thank you for your consideration of this important matter.

Sincerely yours,

Dr. Randell L. Mills  
President, BlackLight Power, Inc.

Attachments



UNITED STATES  
PATENT AND  
TRADEMARK OFFICE

Administrator for External Affairs  
Washington, DC 20231  
[www.uspto.gov](http://www.uspto.gov)

The Honorable Jon S. Corzine  
United States Senate  
One Gateway Center, 11<sup>th</sup> Floor  
Newark, NJ 07102

AUG 14 2001

Attention: Debbie Curto

Dear Senator Corzine:

Thank you for your letter on behalf of Jeffrey S. Melcher, and his client, Dr. Randell L. Mills, President, Blacklight Power, Inc., regarding patent application serial number 09/009,294, and the circumstances concerning its withdrawal from issuance by the United States Patent and Trademark Office (USPTO).

Dr. Mills expresses concerns of "improper" acts by the USPTO, including the possibility of inappropriate communications with outside parties, with particular regard to the withdrawal of that application from allowance. In doing so, he offers a number of allegations to support his concerns.

However, the withdrawal from issue of patent application serial number 09/009,294 is the subject of litigation in the case of *Blacklight Power, Inc. v. Dickinson*, Civ. No. 00-0422 (D.D.C.). The case is currently on appeal to the Court of Appeals of the Federal Circuit from final judgment entered in favor of the USPTO on August 15, 2000, in the district court. Although Dr. Mills states that he does not consider the information requested regarding outside contacts, among other items, to be the subject of the litigation, it is our view that these issues were raised in the ongoing litigation. It would be inappropriate, therefore, to comment on this matter in detail. Furthermore, the application is still pending and the applicant possesses all procedural remedies, including, but not limited to, the opportunity to seek judicial relief.

In light of the pending status of the relevant litigation, any additional comment by the USPTO would be inappropriate.

We trust the foregoing will be useful in responding to your constituent. For your information, a similar letter of response about this matter is also being sent to Senator Robert G. Torricelli.

Sincerely,

Robert L. Stoll  
Administrator for External Affairs

MAX CLELAND  
GEORGIA  
Telephone: (202) 224-3521  
TDD/TTY: (202) 224-3203  
www.senate.gov/~cleland

COMMITTEES  
ARMED SERVICES  
COMMERCE  
GOVERNMENTAL AFFAIRS  
SMALL BUSINESS

# United States Senate

WASHINGTON, DC 20510-1005

March 24, 2000

Ms. Janie Cooksey  
Congressional Liaison  
U.S. Department of Commerce  
Patent and Trademark Office  
Washington, DC 20231

Dear Ms. Cooksey:

The information enclosed is of the utmost importance to my constituent, Mr. Eric Jansson. The information provided raises significant questions about the procedures followed by the Patent and Trademark Office in the decision to withhold issuance of several patents.

I understand, from speaking to the representative of my constituent, that the decision to withhold issuance of these patents was made in a most unconventional fashion. I would very deeply appreciate a thorough review of this situation and a complete report on the basis for the decision which was made in this case.

As you will note, my constituent has a firm belief that the technology involved in this application has a very great commercial as well as social value. I would be grateful for all that you can do to assure that this matter is promptly addressed.

Thank you for your consideration.

Most respectfully,

  
Max Cleland  
United States Senator

MC:jhs

SUITE 1700  
75 SPRING STREET, S.W.  
ATLANTA, GA 30303-3309  
(404) 331-4811

SUITE 101  
225 ROOSEVELT AVENUE  
ALBANY, GA 31701-2372  
(912) 430-7796

611 TELAM STREET  
AUGUSTA, GA 30901-2324  
(706) 722-4040

SUITE 101  
120 12TH STREET  
COLUMBUS, GA 31902-2481  
(706) 649-7705

203 MARTIN LUTHER KING JR. BLVD.  
DALTON, GA 30721-3004  
(706) 275-8905

SUITE 203  
401 CHERRY STREET  
MACON, GA 31201-3384  
(912) 755-1779

SUITE A  
440 MALL BOULEVARD  
SAVANNAH, GA 31406-4602  
(912) 352-8293



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APR 21 2000

The Honorable Max Cleland  
United States Senate  
Washington, D.C. 20510-1005

Dear Senator Cleland:

Thank you for your recent letter concerning your constituent Eric Jansson.

The matter to which Mr. Jansson refers is currently in litigation in the case of *Blacklight Power, Inc. v. Dickinson*, Civ. No. 00-0422 (D.D.C.). It would be inappropriate, therefore, to comment in detail. Moreover, the application is still pending and the applicant possesses all procedural remedies, including, but not limited to, the opportunity to seek judicial relief.

The United States Patent and Trademark Office (USPTO) has moved for summary judgment in that litigation. Attached is a copy of the USPTO's Opposition to Plaintiff's Motion for Summary Judgment, including affidavits, recently filed in the litigation that addresses and denies the applicant's allegations concerning improper handling of the application.

I appreciate your letter and believe that the federal district court will fairly adjudicate the pending matter.

Sincerely,

A handwritten signature in cursive script that reads "Robert L. Stoll".

Robert L. Stoll  
Administrator for External Affairs

Enclosure



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

MAY 15 2000

The Honorable Max Cleland  
United States Senate  
Washington, D.C. 20510-1005

Dear Senator Cleland:

Thank you for your most recent letter on behalf of a constituent, Eric Jansson, regarding on-going litigation between the United States Patent and Trademark Office (USPTO) and Blacklight Power, Inc.

Your letter indicates that your constituent is an investor in Blacklight Power. In the litigation, Blacklight Power is represented by counsel. Thus, it would be inappropriate for the USPTO to communicate directly, or indirectly through your office, with a person represented by counsel. Moreover, any discovery in this matter should be conducted by counsel under the district court's supervision and procedures. Last, Blacklight Power is also represented by counsel before the USPTO in regards to its patent application. When counsel has appeared to represent the patent applicant, the USPTO does not conduct the patent application process with multiple parties nor with persons having some fractional interest in the patent application.

We appreciate your understanding of the nature of your request and your intention not to urge disclosure that would be inappropriate. The district court has scheduled a hearing on May 16, 2000, to hear arguments on the cross-motions for summary judgment. Given the pending litigation, issues concerning this application are best left for resolution by the parties counsel and the district court.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Stoll".

Robert L. Stoll  
Administrator for External Affairs